REMARKS

The present Amendment is in response to a withdrawal of Allowance. The Allowance was based on claims amended by the Examiner and mailed to Applicant's counsel on December 1, 2005. The claims presented here are amended with respect to such allowed and examiner amended claims. As amended, it is believed that the claims overcome the rejections of the Office Action of May 3, 2006.

Claims 6, 12, and 13 are rejected under 35 USC §112 as failing to comply with the written description requirement. Claims 1-6, 8-13, 15-18, 21, 22, and 24-25 are rejected under 35 USC §103 as being unpatentable over U.S. Patent No. 6,778,967, to Nicholson in view of Official Notice. Claims 7 and 14 are rejected under 35 USC §103 as being unpatentable over U.S. Patent No. 6,778,967, to Nicholson, and Official Notice, as applied to claims1 and 13, and further in view of U.S. Patent No. 6,594,644, to Van Dusen. Claims 19 and 20 are rejected under 35 USC §103 as being unpatentable over U.S. Patent No. 6,778,967, to Nicholson, and Official Notice, as applied to claims1 and 13, and further in view of U.S. Patent No. 6,526,277, to Zicker.

Claims 9 and 12-25 are hereby cancelled. Claims 26-30 are newly presented by this Amendment.

Nicholson teaches a system that permits a user to purchase fuel at a current price, delivery of the fuel being on demand at a future date. The system relies on the user making an initial purchase for immediate delivery of fuel at a gasoline station, at which point the system offers the user the opportunity to purchase additional fuel (or a singular product/service such as a car wash) for redemption or delivery on demand at a later date. If the user accepts the offer, a device such as the fuel pump produces a "token" which the user may present at the later date in order to claim or redeem the already purchased product or service. The token, as noted in previous discussions with the Patent Office, is a bearer item. Therefore, there is no electronic system hosting an account for the particular user. The token is not a bulk quantity that can be

combined with other tokens to established a current account balance that sums (or subtracts) portions of the service or product. This is similar to electronic debit cards that are given as gifts, where unused portions of the cards cannot be combined with other cards in a single account.

The Van Dusen patent has similar drawbacks to the Nicholson patent. That is, Van Dusen teaches purchasing electronic gift certificates. The gift certificates are purchased for discrete amounts of money, not a bulk quantity. Therefore, there is no teaching of providing a current market price for a commodity than can be purchased at the current market price yet redeemed at a subsequent time at that value regardless of the prevailing market price at that subsequent time. Furthermore, there is no teaching or suggestion that the account combines the gift certificates into a single account balance, nor that the single account balance reflects multiple purchases and one or more subsequent redemptions.

Zicker describes the pre-paying of a service or non-tangible minutes for use on a cell phone. The minutes/service is deliverable at virtually any location that can communicate with a base station, such as a cellular tower.

With regards to the amended and new claims, the cited references fail to anticipate or make obvious the limitations. Claim 6 is directed towards the purchase and redemption of a tangible commodity. Specifically, claim 6 requires an electronic system for purchasing tangible commodities over a communication network, an account for the purchaser, establishing an account balance for each of the tangible commodities in the account, summing a purchase quantity of the commodity with the account balance, and adjusting the account balance in response to a redemption (delivery) of the commodity, the redemption being some portion of the account balance. In each event, the account balance reflects a quantity of tangible commodity deliverable on demand regardless of prevailing market rate for the commodity at the time of delivery.

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Nicholson fails to establish an account balance for the user, fails suggest summing the account balance with a purchase quantity, and adjusting the user's account balance in response to a redemption. Accordingly, the "tokens" of the Nicholson represent discrete bearer coupons that cannot be combined.

Van Dusen establishes an account for a user, but simply shows the existence of a discrete amount of monetary value available that represents purchasing power. However, the purchasing power of the gift certificates of Van Dusen is based on the market value at the time of redemption. As Van Dusen discusses purchasing from the 2.5 million book titles of Amazon.com, it is instructive in its own deficiencies. That is, Van Dusen does not disclose how one may purchase a quantity of books at a particular market rate so that the books are delivered at a subsequent date, on-demand, regardless of the prevailing market rate. In fact, the notion of such a system would not make sense, and books are not considered a commodity, regardless of tangibility.

The Zicker patent admittedly teaches the pre-purchasing for delivery on-demand at a subsequent date. However, Zicker discusses phone minutes, which are not tangible and are arguably not a commodity. In other words, there is no way to store phone minutes. If a phone company were to turn off their system, there would be not commodity available. The phone company is really providing the service to connect a phone call, on-demand. There is no teaching or suggestion of how the disclosure of Zicker could be used to deliver tangible commodities.

As a combination, the cited references (in any combination, with or without Official Notice) constitute impermissible hindsight. Nicholson teaches using bearer tokens and, as such, teaches away from being combined with the "account" described by either Van Dusen or Zicker. Nicholson and Van Dusen teach a singular item (gift certificate or token) that can be redeemed, and as such teach away from the minutes of Zicker. Van Dusen teaches gift certificates which

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are, in essence, money and not a bulk commodity, and therefore have no relationship to using a product or service at a later time. Zicker is focused on phone minutes and, thus, fail to provide any teaching for addressing the difficulties in delivery of <u>tangible</u> commodities, let alone commodities susceptible to volatile markets such as fuel.

It is further believed that newly added claims, including independent claims 27 and 30, are patentable over the prior art.

With respect to independent claim 27, a method of maintaining an account for the purchase and redemption of at least one tangible commodity is claimed. The method requires establishing an account for an individual user, establishing a current balance for each commodity in the account, accessing the account by the user, transacting with the electronic system for delivery of a selected tangible commodity, delivery being available on-demand at a plurality of specific locations, and adjusting the current balance for the selected commodity in response to the transacting. As noted, the Nicholson patent does not disclose establishing an account for an individual user. Accordingly, with no "account," there can be no current balance in the account, and there is no adjusting of the current balance in response to a transaction with respect to the account. While the Office Action correctly notes that both Van Dusen and Zicker include accounts for individuals, there is no suggestion or motivation provided by Van Dusen and Zicker to modify the teaching of Nicholson. That is, Nicholson explicitly teaches a bearer coupon ("token") and, therefore teaches away from establishing an account for the individual user, as noted above.

As discussed above, Van Dusen does not adjust a current balance for a commodity. Claim 27 states the tangible commodity is purchased at a market price current at time of purchase and delivered on-demand regardless of market price current at time of delivery. Van Dusen has no teaching or suggestion of purchasing a commodity at one price and demanding

delivery at a later date regardless of market price. Instead, Van Dusen teaches setting aside money to be used later.

Zicker teaches pre-purchase of phone minutes, not a tangible commodity. Thus, it provides no teaching of how to actually deliver any tangible commodity which must occur at specific locations.

Again, as discussed above, any combination of these references to make obvious the claim 27 would be improper.

Independent claim 30 requires a method of providing an account for the purchase and redemption of a bulk tangible commodity, and, of the cited references, only Nicholson describes bulk tangible commodity. However, Nicholson fails to teach other limitations of the claims, such as providing an account for a user, providing a single bulk quantity account balance for each tangible commodity for the user, and adjusting the account balance for purchases or redemptions of the commodity. Nicholson fails to teach how to increase the account balance, explicitly teaching a single token and teaching away from establishing a user account and teaching away from the ability to increase the account balance value. In fact, none of the cited references teaches providing a single bulk quantity account balance for each tangible commodity for the user, and none of the cited references teaches adjusting the balance for purchases or redemptions of the tangible commodity.

Conclusion

In view of the foregoing, Applicant submits that the application and drawings are in condition for allowance. Applicant further submits that the amendments made herein are fully supported by the originally filed specification. Accompanying this Amendment are an Amendment Transmittal, a Fee Transmittal, a Revocation of Power of Attorney with New Power

of Attorney and Change of Correspondence Address and a postage prepaid Post Card to be date stamped acknowledging receipt of the above-mentioned correspondence.

If any other fees are due in connection with this application, the Patent Office is authorized to deduct the fees from Deposit Account No. 19-1351. If such withdrawal is made, please indicate the attorney docket number (54082-000001) on the account statement.

Respectfully submitted,

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